

REMARKS

The present application was filed on February 27, 2004 with claims 1-20. In an Amendment and Response to Office Action filed by Applicants on November 30, 2007, claim 9 was canceled without prejudice.

In the outstanding Office Action, the Examiner: (i) rejected claim 16 under 35 U.S.C. §101; (ii) rejected claims 1-8 and 10-20 under 35 U.S.C. 112, second paragraph; (iii) rejected claims 1-8 and 10-20 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2001/0037402 filed in the name of Schneider (hereinafter “Schneider”).

In this response, Applicants traverse the §101, §112, second paragraph, and §102(e) rejections and amend the claims. Applicants respectfully request reconsideration of the application in view of the amendments above and remarks below.

With regard to the §101 rejection of claim 16, Applicants point out that the claim already recites that the medium is readable storage medium (the term “storage” was added in previous Amendment). Notwithstanding the traversal, Applicants have amended independent claim 16 without prejudice, solely in order to expedite prosecution of the application by clarifying that the invention is directed to a computer readable storage medium. Accordingly, the §101 rejection of claim 16 should be withdrawn.

With regard to the §112, second paragraph rejection of claims 1-8 and 10-20, Applicants have amended the subject claims to remedy any perceived clarity issues. Accordingly, Applicants respectfully request the §112, second paragraph rejection of claims 1-8 and 10-20 be withdrawn.

Regarding the §102(e) rejection of claims 1-8 and 10-20, Applicants initially note that MPEP §2131 specifies that a given claim is anticipated “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference,” citing Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Moreover, MPEP §2131 indicates that the cited reference must show the “identical invention . . . in as complete detail as is contained in the . . . claim,” citing Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully traverse the

§102(e) rejection on the ground that the Schneider reference fails to teach or suggest each and every limitation of claims 1-8 and 10-20 as alleged.

Amended claim 1 is directed to a method of determining an accuracy of content to be delivered in a client-server system based on a request from a client, comprising the steps of: obtaining the request; determining a characteristic of at least one server or at least one cache of the client-server system; and determining a level of data accuracy associated with content to be delivered to the client in response to the request, the determination being based on: (i) the determined characteristic of the at least one server or the at least one cache; and (ii) at least one preference associated with the client

In characterizing Schneider as disclosing each and every limitation of the claimed invention, the Examiner cites paragraphs [0016], [0018], [0020], [0023], [0025], [0027], [0028] and [0029]. However, none of these or any other portions of Schneider determine a level of data accuracy associated with content to be delivered to the client, as recited in the claimed invention, but rather they determine a transmission method to be used to transmit data. Thus, while a performance metric or user preference may be considered in Schneider, such criteria is used to determine something completely different than that which is determined by the claimed invention.

Accordingly, it is believed that the teachings of Schneider fail to meet the limitations of claim 1. Independent claims 10, 11, 16, 17 and 20 include limitations similar to those of claim 1, and are therefore believed allowable for reasons similar to those described above with reference to claim 1.

Regarding the claims that depend from claims 1, 11 and 17, Applicants assert that such claims are patentable not only due to their respective dependence on claims 1, 11 and 17, but also because such claims recite patentable subject matter in their own right.

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In view of the above, Applicants believe that claims 1-8 and 10-20 are in condition for allowance, and respectfully request withdrawal of the §101, §112 and §102(e) rejections.

Respectfully submitted,

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